

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 2061(c)(1) (last sentence).	July 2, 1953, ch. 178, §1 “(c)(1) (last sentence)”, 67 Stat. 136.

The words “including an officer of a corporation wholly owned or controlled by the United States” are omitted as unnecessary in view of the definition of “officer” in section 2104.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5509. Appropriations

There are authorized to be appropriated sums necessary to carry out the provisions of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 477.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	[Uncodified].	June 30, 1945, ch. 212, §609, 59 Stat. 306.
.....	[Uncodified].	Oct. 28, 1949, ch. 782, §1107, 63 Stat. 972.
.....	[Uncodified].	Sept. 30, 1950, ch. 1123, §13, 64 Stat. 1100.
.....	42 U.S.C. 1370.	Sept. 1, 1954, ch. 1212, §4(a) “Sec. 1510”, 68 Stat. 1135.
.....	[Uncodified].	Sept. 6, 1960, Pub. L. 86-707, §501(a), 74 Stat. 800.

The remainder of the authority for this section is implied from the statutes from which this title is derived.

MERIT SYSTEMS PROTECTION BOARD AND OFFICE OF SPECIAL COUNSEL; AUTHORIZATION OF APPROPRIATIONS; RESTRICTION ON APPROPRIATIONS

Pub. L. 101-12, §8(a), (b), Apr. 10, 1989, 103 Stat. 34, as amended by Pub. L. 103-424, §1, Oct. 29, 1994, 108 Stat. 4361; Pub. L. 104-208, div. A, title I, §101(f) [title VI, §§641(a), 642(a)], Sept. 30, 1996, 110 Stat. 3009-314, 3009-365; Pub. L. 107-304, §2(a), (b), Nov. 27, 2002, 116 Stat. 2364, provided that:

“(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated—

“(1) for each of fiscal years 2003, 2004, 2005, 2006, and 2007 such sums as necessary to carry out subchapter I of chapter 12 of title 5, United States Code (as amended by this Act); and

“(2) for each of fiscal years 2003, 2004, 2005, 2006, and 2007 such sums as necessary to carry out subchapter II of chapter 12 of title 5, United States Code (as amended by this Act).

“(b) RESTRICTION RELATING TO APPROPRIATIONS UNDER THE CIVIL SERVICE REFORM ACT OF 1978.—No funds may be appropriated to the Merit Systems Protection Board or the Office of Special Counsel pursuant to section 903 of the Civil Service Reform Act of 1978 [Pub. L. 95-454] (5 U.S.C. 5509 note).”

[Pub. L. 107-304, §2(c), Nov. 27, 2002, 116 Stat. 2364, provided that: This section [amending section 8(a) of Pub. L. 101-12, set out above] shall be effective as of October 1, 2002.”]

[Pub. L. 104-208, div. A, title I, §101(f) [title VI, §§641(b), 642(b)], Sept. 30, 1996, 110 Stat. 3009-314, 3009-365, provided that the amendments made by section 101(f) [title VI, §§641(a), 642(a)] of Pub. L. 104-208 [amending section 8(a) of Pub. L. 101-12, set out above] were to be effective on Oct. 1, 1998.]

AUTHORIZATION OF APPROPRIATIONS

Pub. L. 95-454, title IX, §903, Oct. 13, 1978, 92 Stat. 1224, provided that: “There are authorized to be appro-

priated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this Act [For classification of Pub. L. 95-454, see Tables].”

SUBCHAPTER II—WITHHOLDING PAY

§ 5511. Withholding pay; employees removed for cause

(a) Except as provided by subsection (b) of this section, the earned pay of an employee removed for cause may not be withheld or confiscated.

(b) If an employee indebted to the United States is removed for cause, the pay accruing to the employee shall be applied in whole or in part to the satisfaction of any claim or indebtedness due the United States.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 477.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 46a.	Feb. 24, 1931, ch. 287, 46 Stat. 1415.

In subsection (a), the words “From and after February 24, 1931” are omitted as executed. The word “employee” is coextensive with and substituted for “civil employee of the United States” in view of the definition of “employee” in section 2105.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5512. Withholding pay; individuals in arrears

(a) The pay of an individual in arrears to the United States shall be withheld until he has accounted for and paid into the Treasury of the United States all sums for which he is liable.

(b) When pay is withheld under subsection (a) of this section, the employing agency, on request of the individual, his agent, or his attorney, shall report immediately to the Attorney General the balance due; and the Attorney General, within 60 days, shall order suit to be commenced against the individual.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 477; Pub. L. 92-310, title II, §202, June 6, 1972, 86 Stat. 202; Pub. L. 104-316, title I, §103(b), Oct. 19, 1996, 110 Stat. 3828.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 82.	R.S. §1766.

In subsection (b), reference to the “General Accounting Office” is substituted for “accounting officers of the Treasury” on authority of the Act of June 10, 1921, ch. 18, title III, 42 Stat. 23. The words “on request of” are substituted for “if required to do so by” as more accurately reflecting the intent. Reference to the “Attorney General” is substituted for “Solicitor of the Treasury” and “Solicitor” on authority of section 16 of the Act of March 3, 1933, ch. 212, 47 Stat. 1517; section 5 of E.O. 6166, June 10, 1933; and section 1 of 1950 Reorg. Plan No. 2, 64 Stat. 1261.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104-316 substituted “employing agency” for “General Accounting Office”.

1972—Subsec. (b). Pub. L. 92-310 struck out “and his sureties” after “against the individual”.

§ 5513. Withholding pay; credit disallowed or charge raised for payment

When the Government Accountability Office, on a statement of the account of a disbursing or certifying official of the United States, disallows credit or raises a charge for a payment to an individual in or under an Executive agency otherwise entitled to pay, the pay of the payee shall be withheld in whole or in part until full reimbursement is made under regulations prescribed by the head of the Executive agency from which the payee is entitled to receive pay. This section does not repeal or modify existing statutes relating to the collection of the indebtedness of an accountable, certifying, or disbursing official.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 477; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 46b.	May 26, 1936, ch. 452, 49 Stat. 1374. Aug. 3, 1950, ch. 515, 64 Stat. 393.

The words “On and after May 26, 1936” are omitted as executed. The word “official” is substituted for “officer” and “officers” as the definition of “officer” in section 2104 excludes a member of a uniformed service. The words “from the United States or from an agency or instrumentality thereof” are omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

2004—Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office”.

§ 5514. Installment deduction for indebtedness to the United States

(a)(1) When the head of an agency or his designee determines that an employee, member of the Armed Forces or Reserve of the Armed Forces, is indebted to the United States for debts to which the United States is entitled to be repaid at the time of the determination by the head of an agency or his designee, or is notified of such a debt by the head of another agency or his designee the amount of indebtedness may be collected in monthly installments, or at officially established pay intervals, by deduction from the current pay account of the individual. The deductions may be made from basic pay, special pay, incentive pay, retired pay, retainer pay, or, in the case of an individual not entitled to basic pay, other authorized pay. The amount deducted for any period may not exceed 15 percent of disposable pay, except that a greater percentage may be deducted upon the written consent of the individual involved. If the individual retires or resigns, or if his employment or period of active duty otherwise ends, before collection of the amount of the indebtedness is completed, deduction shall be made from subsequent payments of any nature due the individual from the

agency concerned. All Federal agencies to which debts are owed and which have outstanding delinquent debts shall participate in a computer match at least annually of their delinquent debt records with records of Federal employees to identify those employees who are delinquent in repayment of those debts. The preceding sentence shall not apply to any debt under the Internal Revenue Code of 1986. Matched Federal employee records shall include, but shall not be limited to, records of active Civil Service employees government-wide, military active duty personnel, military reservists, United States Postal Service employees, employees of other government corporations, and seasonal and temporary employees. The Secretary of the Treasury shall establish and maintain an interagency consortium to implement centralized salary offset computer matching, and promulgate regulations for this program. Agencies that perform centralized salary offset computer matching services under this subsection are authorized to charge a fee sufficient to cover the full cost for such services.

(2) Except as provided in paragraph (3) of this subsection, prior to initiating any proceedings under paragraph (1) of this subsection to collect any indebtedness of an individual, the head of the agency holding the debt or his designee, shall provide the individual with—

(A) a minimum of thirty days written notice, informing such individual of the nature and amount of the indebtedness determined by such agency to be due, the intention of the agency to initiate proceedings to collect the debt through deductions from pay, and an explanation of the rights of the individual under this subsection;

(B) an opportunity to inspect and copy Government records relating to the debt;

(C) an opportunity to enter into a written agreement with the agency, under terms agreeable to the head of the agency or his designee, to establish a schedule for the repayment of the debt; and

(D) an opportunity for a hearing on the determination of the agency concerning the existence or the amount of the debt, and in the case of an individual whose repayment schedule is established other than by a written agreement pursuant to subparagraph (C), concerning the terms of the repayment schedule.

A hearing, described in subparagraph (D), shall be provided if the individual, on or before the fifteenth day following receipt of the notice described in subparagraph (A), and in accordance with such procedures as the head of the agency may prescribe, files a petition requesting such a hearing. The timely filing of a petition for hearing shall stay the commencement of collection proceedings. A hearing under subparagraph (D) may not be conducted by an individual under the supervision or control of the head of the agency, except that nothing in this sentence shall be construed to prohibit the appointment of an administrative law judge. The hearing official shall issue a final decision at the earliest practicable date, but not later than sixty days after the filing of the petition requesting the hearing.

(3) Paragraph (2) shall not apply to routine intra-agency adjustments of pay that are attrib-